IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

W.P.NO. 8223 OF 2003

AND

WRIT PETITION NO : 8224 of 2003

WRIT PETITION NO : 8223 of 2003

Between:

Scheduled Caste Students Association General Nursing course Rep by its President Bathula Pramila D/o.Devasahayam.
The College of Mediacal Technology Guntupalli, Krishna Dist.

..... PETITIONER

AND

1. The Principal Secretary, Health & Family welfare Dept Secretariat , Hyderabad
2. The Govt Of A.P Rep by its Principal Secretary
   Social welfare Dept Secretariat , Hyderabad.
3. The Commissioner Of Social Welfare Govt of A.P. Telugu Sankshema Bhavan Masabtank , Hyderabad.
4 The College Of Medical Technology Rep by its Director Ch.Girinadh. Lawyer pet , Ongole , Prakasam Dist

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction in the nature of Mandamus or any other appropriate writ declaring as the memo 392/SW.Edn 2/2003-1 dated: 23-1-2003 on the file of the 2nd respondent illegal, void and arbitrary without power and jurisdiction and consequently direct the respondents to sanction of Post Metric Scholarships for S.C. students studying 3 years General Nursing and Midwifery Course in the 4th respondent college , for the year 2000-01 and 2000-02 , as per the regulations of Government of India governing the post metric scholarships read with

G.O.Ms.No.313 Dt: 16-8-1997 , at the rate of Rs.12000/- per year for the students who are admitted under free category and Rs.60,000/- who are admitted under payment category and pass such other order or orders.

Counsel for the Petitioner: MR.V.R.AVULA

Counsel for the Respondents 1 to 3: GP for Social Welfare

W.P.NO. 8224 OF 2003

Between:

Scheduled Caste Students Association, Multipurpose

Health Workers (F) Course, The College of Medical

Technology, Ongole, rep.by its President

Bolleddula Rani, d/o Ananda Raju, Macherla,

Guntur District.

..... PETITIONER

AND

1. The Principal Secretary Health, Medical & Family Welfare Dept.,Secretariaty, Hyderabad
2. The Govt. of A.Prep.by The Principal Secretary, Social Welfare Department Secretariat, Hyderabad
3. The Commissioner of Social Welfare Govt of A.P., Telugu Sankshema Bhavan Masabtank, Hyderabad
4. The College of Medical Technology, Lawyerpet,Ongole

Prakasam District Rep.by its Director, Ch.Girinadh

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction in the nature of Mandamus or any other appropriate writ, declaring as the Memo 392/SW.Edn 2/2003-1, dated 23/01/2003, on the file of the 2nd respondent illegal, void and arbitrary without power and Jurisdiction and consequently direct the respondents to sanction of Post Metric Scholarships for S.C. students studying 1 1/2 years Multi Purpose Health Workers (F) Course in the 4th respondent college, for the year 2000-02 and 2002-2003, as per the regulations of Government of India , governing the post metric scholarships read with G.O. Ms. No. 314, dated 16/08/1997, at the rate of Rs.6000/- per year for the students who are admitted under free category and Rs.30,000/- who are admitted under payment category .

Counsel for the Petitioner: MR.V.R.AVULA
Counsel for the Respondents 1 to 3: G.P. for Social Welfare

The Court made the following:

COMMON ORDER:

Heard both sides.

2. The petitioner herein is a Schedule Caste students' Association, Multipurpose Health Workers (F) Course, the College of Medical Technology, Ongole filed this writ petition, *inter alia,* seeking to assail the impugned orders dated 23-01-2003, passed by the 1st respondent, wherein, the maximum fee, both for free and management seats in respect of the Nursing course and MPHW(F) course for Schedule Caste students was sought to be fixed and the same is to be reimbursed by the Social Welfare Department.

3. The case of the petitioner, in brief, is that though he had filed earlier a writ petition in W.P.No.23343 of 2003 and obtained interim directions, which have not been complied with, he filed Contempt Cases in C.C.Nos.48 and 49 of 2003. In pursuance of the said proceedings, 1st respondent has passed the impugned orders, dated 23-01-2003 now fixing the maximum fee that would be entitled for such courses.

4. The further case of the petitioner is that even though he has filed detailed representation on 18-06-2002 itself, pointing out all the aspects and giving all the details in respect of such fee structure and the amounts to which the students should be entitled to as Scholarship, the same is not considered and further the amount now sought for is far below than the amounts which have to be granted in respect of the other courses in other colleges, which itself is discriminate. It is also the case of the petitioner that even in spite of such detailed representation, the petitioner was not heard nor any enquiry has been held and no reasons have been given in respect of the subject matter, which has been pointed out in the above said representation. Hence, these writ petitions.

5. The learned Government Pleader appearing on behalf of the respondents sought for to sustain the impugned order on the ground that the impugned orders came to be passed by taking into consideration the relevant aspects and therefore, it would

not call for any interference of this Court.

6. Considering the submissions and also on perusing the material available on record *ex facie* the impugned order does not show any reference to the representation dated 18-06-2002 filed by the 1st respondent. Further, it is also does not show as to any notice or opportunity being given to the petitioner, who will be directly affected, as such. Even otherwise, the impugned order also does not disclose any reason as to why the aspects and particulars of the data as given by the petitioner in the aforesaid representation should not be accepted or should not form any basis for fee fixation as sought for to be done now. Though, admittedly, the impugned orders came to be passed at a time, when the contempt proceedings were filed in pursuance of the interim orders granted in the earlier petition filed by the petitioner itself in respect of the same, that one should not follow the specified principles of natural justice, especially as to herein and also giving the reasons on the aspects as pointed out by the learned counsel.

7. In the circumstances, it would suffice in the interest of justice to direct the 1st respondent herein to pass fresh orders after giving an opportunity and taking into consideration, the representation of the petitioner as pointed out.

8. The writ petitions are accordingly allowed. The impugned orders are set aside. It shall be open to the 1st respondent to pass fresh orders after giving notice to the petitioner within a period of two months from the date of receipt of a copy of this order.

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(B.PRAKASH RAO,J)

31st August, 2004.

Kvrm/tsy

That Rule Nisi has been made absolute as above

Witness the Hon'ble Sri Devinder Gupta, The Chief Justice on this the Tuesday the thirty first day of August, two thousand four.

To

1. The Principal Secretary, Health & Family welfare Dept Secretariat, Hyderabad
2. The Government Of A.P Rep. by its Principal Secretary
Social welfare Dept Secretariat, Hyderabad.
3. The Commissioner Of Social Welfare Government of A.P. Telugu Sankshema Bhavan, Masabtank , Hyderabad.
4 The Director, The College Of Medical Technology. Lawyer pet , Ongole , Prakasam Dist.

5. 2 CCs to GP for Social Welfare(OUT)

6. 2 CD copies.